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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DENNIS JOSEPH RAIMONDO (a.k.a.	)	CASE NO. 13-2295 JSC
JUSTIN RAIMONDO), an individual, and	)	
ERIC ANTHONY GARRIS, an individual,	)	<b>FEDERAL DEFENDANTS' ANSWER</b>
	)	<b>TO COMPLAINT FOR DECLARATORY AND</b>
Plaintiffs,	)	<b>INJUNCTIVE RELIEF</b>
	)	
v.	)	
	)	
FEDERAL BUREAU OF INVESTIGATION,	)	
	)	
Defendant.	)	

Federal defendant Federal Bureau of Investigation ("FBI") hereby answers the Complaint for Declaratory and Injunctive Relief for Violation of the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* and the Privacy Act, 5 U.S.C. § 552a *et seq.* (the "Complaint"), filed by plaintiffs Dennis Joseph Raimondo and Eric Anthony Garriss (collectively, "plaintiffs") on May 21, 2013.

**INTRODUCTION**

1. Paragraph 1 contains plaintiffs' characterization of this action to which no response is required. To the extent a response is required, defendant denies the allegations of paragraph 1.

2. Defendant lacks sufficient information to admit or deny the allegations of paragraph 2 and on that basis denies the allegations.



1 that it is an agency within the cited statutes, but is instead, a component of the United States Department  
2 of Justice ("DOJ").

### 3 **LEGAL FRAMEWORK**

4 12. Paragraph 12 constitutes legal conclusions regarding the FOIA, to which no response is  
5 required.

6 13. Paragraph 13 constitutes legal conclusions regarding the Privacy Act, to which no response  
7 is required.

### 8 **FACTS**

9 14. Defendant lacks sufficient information to admit or deny the allegations of paragraph 14  
10 regarding what documents plaintiffs discovered, when plaintiff discovered those documents, and the  
11 content of those documents, and on that basis, denies the allegations. Paragraph 14 contains plaintiffs'  
12 characterization of documents attached as Exhibit A to the Complaint, to which no response is required.  
13 To the extent is required, defendant denies the allegations and avers that the document speaks for itself.  
14 Defendant denies the remaining allegations of paragraph 14.

15 15. Paragraph 15 contains characterizations of Exhibit A, to which no response is required. To  
16 the extent a response is required, defendant denies the allegations and avers that the document speaks for  
17 itself.

18 16. Paragraph 16 contains plaintiffs' characterization of Exhibit A, to which no response is  
19 required. To the extent a response is required, defendant denies the allegations and avers that the  
20 document speaks for itself. Defendant lacks sufficient information to admit or deny the remaining  
21 allegations of paragraph 16 regarding postings on the website Scribd.com, and on that basis, deny the  
22 allegations.

23 17. Paragraph 17 contains plaintiffs' characterization of Exhibit A, to which no response is  
24 required. To the extent a response is required, defendant denies the allegations and avers that the  
25 document speaks for itself.

26 18. Paragraph 18 contains plaintiffs' characterization of the contents of Exhibit A to which no  
27 response is required. To the extent a response is required, defendant denies the allegations and avers  
28 that the document speaks for itself.

1           19. Paragraph 19 contains plaintiffs' characterization of the contents of Exhibit A to which no  
2 response is required. To the extent a response is required, defendant denies the allegations and avers  
3 that document speaks for itself.

4           20. Paragraph 20 contains plaintiffs' characterization of the contents of Exhibit A to which no  
5 response is required. To the extent a response is required, defendant lacks sufficient information to  
6 admit or deny the allegations of paragraph 20, and on that basis, denies the allegations. Defendant avers  
7 that the document speaks for itself.

8           21. Paragraph 21 contains plaintiffs' characterization of various documents that they allegedly  
9 reviewed. Defendant lacks sufficient information to admit or deny plaintiffs' allegations regarding what  
10 documents they reviewed, and on that basis, denies the allegations. No response is required as to  
11 plaintiffs' characterization of those documents. To the extent a response is required, defendant denies  
12 the allegations and avers that the documents speak for themselves.

13           22. Paragraph 22 contains legal conclusions to which no response is required. To the extent a  
14 response is required, defendant denies the allegations of paragraph 22.

15           23. Defendant lacks sufficient information to admit or deny the allegations of paragraph 23, and  
16 on that basis, denies the allegations.

17           24. Defendant lacks sufficient information to admit or deny the allegations of paragraph 24, and  
18 on that basis, denies the allegations.

19           25. Defendant lacks sufficient information to admit or deny the allegations of paragraph 25, and  
20 on that basis, denies the allegations.

21           26. Defendant lacks sufficient information to admit or deny the allegations of paragraph 26, and  
22 on that basis, denies the allegations.

23           27. Defendant lacks sufficient information to admit or deny the allegations of paragraph 27, and  
24 on that basis, denies the allegations.

25           28. Defendant lacks sufficient information to admit or deny the allegations of paragraph 28, and  
26 on that basis, denies the allegations.

27           29. Defendant lacks sufficient information to admit or deny the allegations of paragraph 29, and  
28 on that basis, denies the allegations.

1 30. Defendant lacks sufficient information to admit or deny the allegations of paragraph 30, and  
2 on that basis, denies the allegations.

3 31. Defendant lacks sufficient information to admit or deny the allegations of paragraph 31, and  
4 on that basis, denies the allegations.

5 32. Defendant lacks sufficient information to admit or deny the allegations of paragraph 32, and  
6 on that basis, denies the allegations.

7 33. Defendant lacks sufficient information to admit or deny the allegations of paragraph 33, and  
8 on that basis, denies the allegations.

9 34. Defendant lacks sufficient information to admit or deny the allegations of paragraph 34, and  
10 on that basis, denies the allegations.

11 35. Defendant lacks sufficient information to admit or deny the allegations of paragraph 35, and  
12 on that basis, denies the allegations.

13 36. Defendant lacks sufficient information to admit or deny the allegations of paragraph 36  
14 regarding plaintiffs' beliefs, and on that basis, denies the allegations. Defendant denies the remaining  
15 allegations of paragraph 36.

16 37. Defendant admits that it received a letter dated October 4, 2011, from the American Civil  
17 Liberties Union of Northern California ("ACLU-NC") on behalf of plaintiff Garris. The remaining  
18 allegations of paragraph 37 contain plaintiff's characterization of the October 4, 2011 letter, to which no  
19 response is required. Defendant avers that the document speaks for itself.

20 38. Defendant admits that it received a letter dated October 4, 2011, from the ACLU-NC on  
21 behalf of plaintiff Raimondo. The remaining allegations of paragraph 38 contain plaintiff's  
22 characterization of the October 4, 2011 letter, to which no response is required. Defendant avers that the  
23 document speaks for itself.

24 39. Defendant lacks sufficient information to admit or deny the allegations of paragraph 39.

25 40. Defendant admits that it sent letters dated November 2, 2011. The remaining allegations of  
26 paragraph 40 contain plaintiff's characterization of the November 2, 2011 letters, to which no response  
27 is required. Defendant avers that the documents speak for themselves.

28 41. Defendant admits that DOJ's Office of Information Policy ("OIP") received a letter dated

1 December 22, 2011, from counsel for plaintiff Garris. Defendant lacks sufficient information to admit  
2 or deny plaintiffs' allegations regarding the method of mailing of the December 22, 2011 letter, and on  
3 that basis, denies the allegations. The remaining allegations of paragraph 41 contain plaintiffs'  
4 characterization of plaintiff Garris' letter dated December 22, 2011, to which no response is required.  
5 Defendant avers that the document speaks for itself.

6 42. Defendant admits that DOJ's Office of Information Policy ("OIP") received a letter dated  
7 December 22, 2011, from counsel for plaintiff Raimondo. Defendant lacks sufficient information to  
8 admit or deny plaintiffs' allegations regarding the method of mailing of the December 22, 2011 letter,  
9 and on that basis, denies the allegations. The remaining allegations of paragraph 42 contain plaintiffs'  
10 characterization of plaintiff Garris' letter dated December 22, 2011, to which no response is required.  
11 Defendant avers that the document speaks for itself.

12 43. Defendant admits that OIP sent a letter dated January 4, 2012. The remaining allegations of  
13 paragraph 43 contain plaintiffs' characterizations of the January 4, 2012 letter, to which no response is  
14 required. Defendant avers that the document speaks for itself.

15 44. Defendant admits that on March 29, 2012, DOJ's OIP sent a letter to counsel for plaintiff  
16 Raimondo, signed by Anne D. Work. Paragraph 44 contains plaintiffs' characterization of the contents  
17 of the March 29, 2012 letter, to which no response is required. Defendant avers that the March 29, 2012  
18 letter speaks for itself.

19 45. Defendant admits that on September 17, 2012, DOJ's OIP sent a letter to counsel for  
20 plaintiff Garris, signed by Janice Galli McLeod. Paragraph 45 contains plaintiffs' characterization of the  
21 contents of the March 29, 2012 letter, to which no response is required. Defendant avers that the March  
22 29, 2012 letter speaks for itself. .

23 46. Defendants admit that it received a letter dated May 24, 2012, from Julia Haruni Mass, and  
24 that Exhibit B is a true and correct copy of the letter defendant received. The remainder of paragraph 46  
25 contains plaintiffs' characterization of the contents of the May 24, 2012 letter, to which no response is  
26 required. Defendant avers that the document speaks for itself.

27 47. Paragraph 47 contains plaintiffs' characterization of the contents of Exhibit B, to which no  
28 response is required. Defendant avers that the document speaks for itself.

1 48. Paragraph 48 contains plaintiffs' characterization of the contents of Exhibit B, to which no  
2 response is required. Defendant avers that the document speaks for itself.

3 49. Defendant presently lacks sufficient information to admit or deny the allegations of  
4 paragraph 49, and on that basis denies them.

5 50. Defendant presently lacks sufficient information to admit or deny the allegations of  
6 paragraph 49, and on that basis denies them.

7 51. Defendant admits that Exhibits C and D are true and correct copies of letters dated  
8 November 9, 2012, and signed by David M. Hardy, Section Chief, Record/Information Dissemination  
9 Section, Records Management Division, FBI. The remaining allegations of paragraph 51 constitute  
10 plaintiff's characterization of Exhibits C and D, to which no response is required. Defendant avers that  
11 the documents speak for themselves.

12 52. Defendant lacks sufficient information to admit or deny the allegations of paragraph 52, and  
13 on that basis, denies them.

14 53. Paragraph 53 contains legal conclusions, to which no response is required. To the extent a  
15 response is required, defendant denies the allegations of paragraph 53.

16 54. Paragraph 54 constitutes legal conclusions to which no response is required. To the extent a  
17 response is required, defendant denies the allegations of paragraph 54.

18 55. Defendant denies the allegations of paragraph 55.

19 **FIRST CLAIM FOR RELIEF**

20 **Violation of the FOIA for Failure to Make Promptly Available the Records Sought by Plaintiffs'**

21 **Requests (5 U.S.C. §§ 552(a)(3), (a)(6))**

22 56. Defendant incorporates its responses to paragraphs 1 through 55 above, and incorporates  
23 each response therein as though fully set forth herein.

24 57. Paragraph 57 contains a legal conclusion to which no response is required. To the extent a  
25 response is required, defendant denies the allegations of paragraph 57.

26 58. Defendant denies the allegations of paragraph 58.

27 59. Defendant denies the allegations of paragraph 59.

28 **SECOND CLAIM FOR RELIEF**

**Violation of the Privacy Act for Failure to Allow Plaintiffs' Garriss and Raimondo Access to  
Records (5 U.S.C. § § 552a(d)(1), (g)(1)(B))**

60. Defendant incorporates its responses to paragraphs 1 through 59 above, and incorporates each response therein as though fully set forth herein.

61. Paragraph 61 contains a legal conclusion to which no response is required. To the extent a response is required, defendant denies the allegations of paragraph 61.

62. Paragraph 62 contain a legal conclusions to which no response is required. To the extent a response is required, defendant denies the allegations of paragraph 62.

63. Defendant denies the allegations of paragraph 63.

64. Defendant denies the allegations of paragraph 64.

The remainder of plaintiffs' Complaint constitutes a prayer for relief to which no response is required. To the extent a response is required, defendant denies the allegations and denies that plaintiffs are entitled to the relief they seek, or to any relief at all.

Any allegations not specifically responded to above are denied. AND FURTHER answering, defendant avers:

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Court lacks subject matter jurisdiction over some of all of the claims alleged.

**SECOND AFFIRMATIVE DEFENSE**

The Court lacks jurisdiction over any matter to the extent plaintiffs failed to satisfy prerequisites to suit, as well as over any requests or allegations that are not contained in a Freedom of Information Act or Privacy Act request at issue in this action.

**THIRD AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to exhaust administrative remedies.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs have not alleged sufficient factual and/or legal bases for their request for costs and/or



attorneys fees.

SIXTH AFFIRMATIVE DEFENSE

At all times alleged in the Complaint, defendant was acting with good faith with justification, and pursuant to authority.

SEVENTH AFFIRAMTIVE DEFENDANT

Defendant cannot produce documents that are except from disclosure pursuant to the Freedom of Information Act and/or the Privacy Act. Disclosure of such information is not required or permitted. Some or all of the requested documents may be exempt from disclosure, see, e.g., 5 U.S.C. 552(b).

EIGHTH AFFIRMATIVE DEFENSE

The Freedom of Information Act does not authorize the injunctive relief requested.

NINTH AFFIRMATIVE DEFENSE

The Privacy Act does not authorize the injunctive relief requested.

TENTH AFFIRMATIVE DEFENSE

There is no provision under the Freedom of Information Act or Privacy Act for obtaining declaratory relief.

Defendant reserves the right to assert additional affirmative defenses in the event that such affirmative defenses would be appropriate.

WHEREFORE, defendant prays that:

1. The complaint be dismissed with prejudice;
2. Plaintiffs take nothing by this action;
3. No injunctive relief be awarded to plaintiffs;
4. The court enter judgment in favor of defendant; and
5. The court grant such other and further relief as it deems just and proper.

DATED: June 20, 2013

Respectfully submitted,  
MELINDA HAAG  
United States Attorney

/s/  
JENNIFER S WANG  
Assistant United States Attorney